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Docket No. 14XZ00133/GHM-0203

REMARKS / ARGUMENTS

Status of Claims

Claims 1-72 are pending in the application. Claims 1-11 and 31-72 stand rejected. Claims 12-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Applicant has amended Claims 1-4, 9-10, 31-33, 36, 38-39 and 68-69, leaving Claims 1-72 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §112, second paragraph, 35 U.S.C. §102(b), and 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §112, Second Paragraph

Regarding Examiner's Paragraph 1

Claims 2, 9-10, 31-32 and 36-72 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

Regarding Examiner's Paragraph 2

Claims 3-6, 12, 32-34 and 69 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

Applicant traverses these rejections for the following reasons.

Applicant submits that where the claims define patentable subject matter with a reasonable degree of particularity and distinctness, the claims should be allowed. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as may be desired. Claims should not be rejected if the expression selected by Applicant satisfies the statutory requirements. In

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viewing a claim for compliance with 35 U.S.C. §112, second paragraph, the claim as a whole must be considered to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the required notice function. MPEP 2173.02. (Emphasis in the original).

Regarding Claims 2, 9-10 and 31-32 of Examiner's Paragraph 1

Applicant has amended Claim 1 to change the "checking" step to "controlling" step, thereby providing the proper antecedent support for dependent claim language.

Applicant has further amended Claims 2, 9-10 and 31-32 for proper dependency language.

No new matter has been added since antecedent support may be found in the specification as originally filed, such as at Paragraphs [0071-0106] for example, where Applicant discusses several phases of qualification that includes determining and correcting, and thereby controlling, for bad pixels.

Regarding Claims 36-72 of Examiner's Paragraph 1

Applicant has amended Claim 36 to change the "the control" to "the means for calculation", thereby providing proper antecedent support for dependent claim language.

No new matter has been added since antecedent support may be found in Claim 36 as originally filed.

Regarding Claims 3-6, 12, 32 and 69 of Examiner's Paragraph 2

Applicant has amended Claims 3, 4, 31, 32, 38, 39 and 69, to replace the use of the word "latter" with language meaningful of that term. No new matter has been added as one skilled in the art would understand what the term "latter" referred to by comparing "former" and "latter" elements that are not only presented in the claims, but are also presented and discussed in the specification, as originally filed.

Regarding Claims 33-34 of Examiner's Paragraph 2

Applicant has amended Claim 33 to rephrase the subject matter regarded as the invention, thereby associating the term "fixed" with the separation between two successive images, rather than with the delivering of images in dynamic mode.

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No new matter has been added as antecedent support may be found in the specification as originally filed, such as at Paragraph [0033] for example.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claimed subject matter is described in such a manner that reasonably conveys to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention, defined the claimed subject matter with a reasonable degree of particularity and distinctness, and therefore respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §112, second paragraph, which Applicant considers to be traversed.

Rejections Under 35 U.S.C. §102(b)

Claims 1-6, 9-11, 36-41 and 44-46 stand rejected under 35 U.S.C. §102(e) as being anticipated by Cho (U.S. Patent No. 6,795,118, hereinafter Cho).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended independent Claims 1 and 36 to now include the limitation of a *sliding window, the sliding window configured to occupy a number of image sensor lines less than the total number of image sensor lines.*

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No new matter has been added as antecedent support may be found in the specification as originally filed, such as at Paragraphs [0093] and [0103] for example.

Dependent claims inherit all of the limitations of the respective parent claim.

In alleging anticipation, the Examiner remarks that Cho discloses defining a window (the window of Cho is a pixel array window, column 2, line 63, and the format herein is "array"). Paper 20050208, page 4.

In comparing Cho with the instant invention, Applicant finds Cho to disclose a pixel array or pixel window (col. 2 line 2, line 26, and line 63, for example), but to be absent any disclosure of a *sliding window, the sliding window configured to occupy a number of image sensor lines less than the total number of image sensor lines*, which is now specifically claimed for in the instant invention.

Accordingly, Applicant submits that Cho does not disclose all of the claimed elements, including their claimed attributes, arranged as in the claim, and respectfully submits that absent anticipatory disclosure in Cho of each and every element of the claimed invention arranged as in the claim, Cho cannot be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Cho does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejection under 35 U.S.C. §102(b) has been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

Rejections Under 35 U.S.C. §103(a)

Claims 7-8, 35, 42-43 and 72 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cho.

Regarding Claim 7, the Examiner remarks that it appears that having any number of line sections would perform equally well. Paper 20050208, page 8.

Claims 31-34 and 68-71 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cho as applied to Claim 1 above, and further in view of Lawrence (U.S. Patent No. 6,219,443, hereinafter Lawrence).

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Regarding Claims 31 and 33, the Examiner acknowledges that Cho does not teach each and every element of these claims, and looks to Lawrence to cure the deficiencies. Paper 20050208, page 9.

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Regarding Claims 7-8, 35, 42-43 and 72

Claims 7-8, 35, 42-43 and 72 depend from respective parent Claims 1 and 36, which have been amended as set forth above.

Dependent claims inherit all of the limitations of the respective parent claim.

Applicant discusses at Paragraphs [0093] and [0104-0105] the advantages of using in a qualification method a sliding window that occupies a number of image sensor lines less than the total number of image sensor lines. For example, such a qualification method makes it possible to frame exactly a bad batch mL and the interval of LS lines preceding the bad batch (Paragraph [0093]); to perform a looping process that makes it possible to obtain and register the Mpmax values in succession for all the lines of the window (Paragraph [0104]); and, whether it is possible to place a window Wn anywhere, so that the Totmax number exceeds 2,560, and to reject the sensor in such a case (Paragraph [0105]).

In comparing Cho with the instant invention, Applicant finds Cho to be absent a teaching or suggestion of each and every element of the claimed invention, and to be absent any recognition or solution of the problem only recognized and solved by the instant invention.

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Regarding Claims 31-34 and 68-71

Claims 31-34 and 68-71 depend from respective parent Claims 1 and 36, which have been amended as set forth above.

Dependent claims inherit all of the limitations of the respective parent claim.

In looking to Lawrence to cure the deficiencies of Cho, Applicant submits that Lawrence does not cure the deficiencies of Cho with respect to the parent Claims. Accordingly, Applicant submits that the combination of Cho and Lawrence remains absent a teaching or suggestion of each and every element of the claimed invention, and to be specifically absent a teaching or suggestion of a qualification method using a *sliding window, the sliding window configured to occupy a number of image sensor lines less than the total number of image sensor lines*.

Accordingly, Applicant submits that the combination of Cho and Lawrence is absent a teaching or suggestion that would motivate one skilled in the art to do what the Applicant has done.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to recognize a problem recognized and solved only by the present invention, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §112, second paragraph, 35 U.S.C. §102(b), and 35 U.S.C. §103(a), have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

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Regarding Allowable Subject Matter

Claims 12-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In view of the foregoing amendments and remarks regarding independent Claim 1, from which Claims 12-30 depend, Applicant submits that Claims 12-30 are now directed to allowable subject matter and respectfully requests notice of allowance thereof.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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